

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

RODOLFO MOTA	§	
	§	
v.	§	
	§	C.A. 2:15-cv-00310
LUIS BARRALES AVALOS, EJ	§	
DISTRIBUTION CORP. D/B/A EJ	§	
TRANSPORT, SOUTH BAY	§	
TRANSPORTATION, INC., AND AIG	§	
PROPERTY CASUALTY COMPANY	§	

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT JUDGE:

COMES NOW South Bay Transportation, Inc., (“South Bay”) and presents this Notice of Removal of the suit brought by Rodolfo Mota (“Plaintiff”) from the District Court of Jim Wells County, Texas, 79th Judicial District, where the suit was instituted, to this United States District Court for the Southern District of Texas, Corpus Christi Division, encompassing the place where the state court is located. Expressly reserving all questions other than that of removal, South Bay respectfully shows that removal is proper as follows:

I. STATE COURT SUIT

1.1 On or about May 29, 2015, Plaintiff commenced an action against South Bay, Luis Barrales Avalos (“Avalos”), EJ Distribution Corp. d/b/a/ EJ Transport (“EJ”) and AIG Property Casualty Company (“AIG”) in the 79th Judicial District Court of Jim Wells County, Texas, entitled “*Rodolfo Mota v. Luis Barrales Avalos, EJ Distribution Corp. d/b/a EJ Transport, South Bay Transportation, Inc., and AIG Property Casualty Company*” and bearing Cause No. 15-05-54657-CV (the “State Court Action”).

1.2 The State Court Action is a civil suit in which Plaintiff alleges personal injuries sustained as a result of a vehicular collision.

1.3 Service of citation in the State Court Action was made on South Bay on or after July 3, 2015. Therefore, South Bay's removal is timely.

II. PARTIES AND CITIZENSHIP

2.1 Plaintiff, at the time suit was filed, when this case was removed, and at present, was, and is, a citizen of the state of Texas.

2.2 South Bay is a foreign corporation duly formed and existing under the laws of the State of California with its principal place of business in West Covina, California. South Bay, at the time suit was filed, when this case was removed, and at present, was, and is, a citizen of California and no other state.

2.3 Avalos is an individual domiciled in California. Avalos, at the time suit was filed, when this case was removed, and at present, was, and is, a citizen of California and no other state.

2.3 EJ is a foreign dissolved corporation duly formed and existing under the laws of California with its principal place of business in Carson, California. EJ, at the time suit was filed, when this case was removed, and at present, was, and is, if at all, a citizen of California, and no other state.

2.4 AIG is a foreign corporation duly formed and existing under the laws of Pennsylvania with its principal place of business in New York. AIG, at the time suit was filed, when this case was removed, and at present, was, and is, a citizen of Pennsylvania and New York and no other state.

III. DIVERSITY JURISDICTION

4.1 The aforesaid controversy is within this Court's diversity jurisdiction. Complete diversity exists between Plaintiff, a citizen of Texas, and Defendants South Bay, Avalos, and EJ, citizens of California, and Defendant AIG, a citizen of New York and Pennsylvania. The matter in controversy between Plaintiff and Defendants exceeds, exclusive of interest and costs, the sum of \$75,000, as Plaintiff alleges severe injury to his neck, back, and knee. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S.Ct. 547, 554 (2014). Further, while Plaintiff failed to specifically plead an amount in controversy in his State Court Petition, he states in the Civil Case Information Sheet he submitted with his Petition that the amount in controversy exceeds \$1,000,000. Exhibit A-5. This Court therefore has subject matter jurisdiction in this case pursuant to diversity jurisdiction. 28 U.S.C. 1332.

V. OTHER MATTERS

5.1 Upon filing this Notice of Removal, South Bay will provide written notification to the parties and will file a Notification of Removal, attaching a copy of this Notice of Removal, with the Clerk for the District Court of Jim Wells County, Texas, 79th Judicial District.

5.2 Plaintiff has made a jury demand in state court.

5.3 Pursuant to Local Rule 81, this Notice of Removal is accompanied by the following-documents:

1. An index of matters being filed (Exhibit A);
2. All process in this case (Exhibit A-1 through A-4);
3. All pleadings asserting causes of action, *e.g.*, petitions, counterclaims, cross actions, third-party actions, interventions, and all answers to such pleadings (Exhibit A-5);
4. The state court docket sheet (Exhibit A-6);

5. A list of all counsel of record, including addresses, telephone numbers, and parties represented (Exhibit A-7).

5.4 Avalos consents to this removal. Exhibit "B". According to the State Court Action file materials, the other Defendants have not been served and/or properly joined. Therefore, their consent is not required. 28 U.S.C. 1446(b).

VI. CONCLUSION

6.1 This case is a civil action brought in a state court, and the federal district courts have original jurisdiction over the subject matter under 28 U.S.C. §1332. Removal of this case is proper under 28 U.S.C. §1441 and in conformance with 28 U.S.C. §1446. For these reasons, South Bay removes this case from the state district court to this Court and prays that this Court enter such orders and grant such relief as may be necessary to secure such removal.

Respectfully submitted,

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

/s/ Timothy D. McMurtrie

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SOUTH BAY TRANSPORTATION, INC.**

OF COUNSEL:

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

CERTIFICATE OF SERVICE

I certify that the foregoing instrument was served by the e-filing system (to counsel registered for e-service) and by the means indicated to the counsel below on this 23rd day of July, 2015.

VIA CMRRR

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